

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL LEON WATTS,)	Case No.: 1:21-cv-00814-AWI-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATION
v.)	RECOMMENDING PLAINTIFF'S APPLICATION
)	TO PROCEED IN FORMA PAUPERIS BE
CALIFORNIA DEPARTMENT OF)	DENIED
CORRECTIONS, et al.,)	
)	(ECF No. 2)
Defendants.)	
)	
)	
)	

Plaintiff Michael Leon Watts is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the instant action on April 12, 2021 in the United States District Court for the Central District of California. On May 19, 2021, the action was transferred to this Court. (ECF No. 6.)

**I.
DISCUSSION**

On June 2, 2021, the Court issued an order to show cause why Plaintiff's application to proceed in forma pauperis should not be denied because he has suffered three or more strikes under 28 U.S.C. § 1915(g). (ECF No. 13.)

On June 14, 2021, Plaintiff filed a response to the order to show cause. (ECF No. 14.)

///

1 Plaintiff does not dispute that he has suffered three or more strikes under § 1915(g) and that his
2 complaint fails to meet the imminent danger of serious physical injury. (Id.) Rather, Plaintiff requests
3 that he be allowed to pay the filing fee in partial payments. (Id.)

4 The filing fee for civil actions is \$402: \$350 pursuant to 28 U.S.C. § 1914(a) and a \$52
5 administrative fee pursuant to 28 U.S.C. § 1914, note 14. A party who cannot afford to pay that
6 amount in a lump sum, may apply for *in forma pauperis* status under 28 U.S.C. § 1915. This section
7 states:

8 (b)(1) ... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner
9 shall be required to pay the full amount of a filing fee. The court shall assess and, when funds
10 exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee
of 20 percent of the greater of –

11 (A) the average monthly deposits to the prisoner's account; or

12 (B) the average monthly balance in the prisoner's account for the 6-month period immediately
13 preceding the filing of the complaint or notice of appeal.

14 (2) After the initial partial filing fee, the prisoner shall be required to make monthly payments
15 of 20 percent of the preceding month's income credited to the prisoner's account. The agency
16 having custody of the prisoner shall forward payments from the prisoner's account to the clerk
of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

17 28 U.S.C. § 1915.

18 Thus, *in forma pauperis* status allows for partial payments of the filing fees. However, since it
19 clear that Plaintiff is not entitled to proceed *in forma pauperis*, § 1915(g) requires that filing fee must
20 be *paid in full* in order for the case to proceed. Accordingly, the Court will recommend that Plaintiff's
21 application to proceed in forma pauperis be denied and Plaintiff be directed to pay the \$402.00 filing
22 fee in full.

23 II.

24 RECOMMENDATIONS

25 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 26 1. Plaintiff's application to proceed in forma pauperis (ECF No. 2) be denied; and
- 27 2. Plaintiff be directed to pay the \$402.00 filing fee in full.

1 These Findings and Recommendations will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**
3 after being served with these Findings and Recommendations, Plaintiff may file written objections
4 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
5 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
6 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
7 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).
8

9 IT IS SO ORDERED.

10 Dated: **June 16, 2021**


UNITED STATES MAGISTRATE JUDGE